

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Central Illinois Public Service Company)	
(AmerenCIPS) and)	
)	
Union Electric Company)	
(AmerenUE))	
)	
Application for entry of protective order to)	
protect confidentiality of materials submitted)	
in support of revised gas service tariffs.)	
)	
Central Illinois Public Service Company)	Docket Nos. 02-0798, 03-0008, 03-0009
)	(Cons.)
Proposed general increase in natural)	
gas rates. (Tariffs filed November 27, 2002))	
)	
Union Electric Company)	
Proposed general increase in natural gas rates.)	
)	
(Tariffs filed November 27, 2002)		

**BRIEF ON EXCEPTIONS OF
THE PEOPLE OF THE STATE OF ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS
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TABLE OF CONTENTS

I. Exception 1: Post Test Year Capital Additions	1
A. Discussion	1
B. Replacement Language	1
II. Exception 2: Accumulated Deferred Income Taxes (ADIT).....	2
A. Discussion	2
1. The People provided sufficient reasoning and support for the Commission to adopt their proposal.....	2
2. Selective treatment of accumulated deferred income tax (“ADIT”) components is appropriate.....	3
B. Replacement Language	4
III. Exception 3: Commission Conclusion on Original Cost Rate Base	5
A. Discussion	5
B. Replacement Language	5
IV. Exception 4: Amortization of VRP Costs	5
A. Discussion	5
B. Replacement Language	6
V. Exception 5: Meter Reading Expense, Non-Labor	6
A. Discussion	6
B. Replacement Language	7
VI. Exception 6: Allocation of Rate Case Expense	8
A. Discussion	8
B. Replacement Language	9
VII. Exception 7: Findings and ordering paragraphs	9
A. Discussion	9
B. Replacement Language	9
VIII. Exception 8: Schedules	10
A. Discussion	10
B. Replacement Language	14
CONCLUSION	14

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The People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois (“the People”) submit the following Brief on Exceptions in the above-entitled Docket.

I. Exception 1: Post Test Year Capital Additions

A. Discussion

The People do not take exception to the Proposed Order’s recommended adjustment with regard to post test-year capital additions. However, the adjustment impacts the calculation of CIPS and UE’s depreciation expense. As a result of the adjustment, CIPS depreciation expense will decrease by \$112,000 and UE’s depreciation expense will decrease by \$34,000. The People recommend that the Proposed Order include language accounting for these effects.

B. Replacement Language

The People recommend that the following language be added after the last paragraph in section II(C)(1)(d) on page 10 of the Proposed Order:

The Commission finds that Ameren’s proposed post-test year pro forma capital additions to the historical test year, if adopted, would result in a mismatch of costs and revenues that may be expected for the period during which rates are in place. Due to the circumstances present here it would result in an overstatement of rate base. Accordingly, the AG’s proposal to eliminate the post test year capital additions is adopted. CIPS’ and UE’s rate base should be adjusted to eliminate the post test-year capital additions, and in conjunction with these adjustments, CIPS and UE’s depreciation expenses should be adjusted to eliminate depreciation currently included for post test year capital additions. This adjustment will have the effect of reducing CIPS’ depreciation expense by \$112,000 and UE’s depreciation expense by \$34,000.

II. Exception 2: Accumulated Deferred Income Taxes (ADIT)

A. Discussion

The People take exception to language in the Proposed Order stating that the AG has failed to provide a convincing reason to change position on this issue. The People also take exception to language on pages 23 and 24 of the Proposed Order stating, “[T]he entire balance of the reserve for deferred taxes should be deducted from rate base, without selective adjustment for individual items.” Proposed Order at 23-24.

1. The People provided sufficient reasoning and support for the Commission to adopt their proposal.

The Proposed Order states that the AG did not provide a convincing reason to change position on this issue (ADIT).” Proposed Order at 24. The primary reason that the Commission should adopt the AG’s ADIT proposal is that it is unfair to ratepayers to permit item-by-item ADIT adjustment when it increases rate base but not when it decreases rate base. In ICC Docket No. 02-0837, the Central Illinois Light Company (CILCO), CIPS and UE’s sister Ameren Company, proposed selective ADIT adjustments with the effect of increasing rate base. In the instant cases, where selective ADIT treatment would decrease rate base, the Ameren Companies argue that such selective ADIT adjustments are impermissible. By arguing one way in ICC Docket No. 02-0837 and the other way in the instant cases, the Ameren Companies are shifting their position on how ADIT should be treated so that shareholders always benefit at the expense of ratepayers. The Commission should not allow the Ameren Companies to play accounting games to maximize their rate base at the expense of ratepayers.

Another reason that the Commission should adopt the People's ADIT position is that, contrary to the discussion in the Proposed Order, the ADIT treatment in ICC Docket No. 01-0423 is not distinguishable from the instant cases. In ICC Docket No. 01-0423, the utility itself acknowledged, by proposing to remove certain ADIT items from rate base, that it is appropriate to analyze individual ADIT items to determine which should go into rate base and which should not. ICC Docket No. 01-0423 Order at 46. The utility in 01-0423 explained that inappropriate items were included in ADIT due to "inadvertence." Regardless of the explanation offered by the utility in 01-0423, ADIT was still treated on an item-by-item basis in that case to remove the inappropriately included items. Such treatment is appropriate in the instant cases as well.

2. Selective treatment of accumulated deferred income tax ("ADIT") components is appropriate.

CIPS' and UE's proposed treatment of ADIT would include all ADIT components in rate base, regardless of whether the ADIT component's corresponding income or expenses were included in rate base. This treatment of ADIT will result in non-rate base items improperly triggering rate base increases. CIPS and UE did not dispute the fact that their proposed ADIT treatment includes non-rate base debit balances.¹ Reply Brief of the Ameren Companies at 12. CIPS and UE state that debit balances included in ADIT, "reduce the overall reduction of rate base." Initial Brief of

¹ The following non-rate base debit balances are included in CIPS' proposed ADIT: deferred tax balance related to pensions, accrued liability for post retirement benefits other than pensions ("OPEB"), and deferred tax debit balance related to the accrual for gas site cleanup costs. The following non-rate base debit balances are included in UE's proposed ADIT: deferred taxes related to pension expense accrual that is not deductible for income tax purposes, net deferred tax debit balance related to the accrued liability for vacation pay, and deferred tax debit balance related to accrual for environmental cleanup costs.

the Ameren Companies at 27. Reducing the overall reduction of rate base is, obviously, equivalent to increasing rate base. The non-rate base debit balances included in CIPS' ADIT will increase CIPS' rate base by over 4 million dollars. The non-rate base debit balances included in UE's ADIT will increase UE's rate base by \$341,000. The Proposed Order should not include these substantial increases to rate bases that result from non-rate base debit balances.

B. Replacement Language

The People propose the following replacement language on pages 23 and 24 of the Proposed Order:

~~The Commission agrees with Ameren that the entire balance of the reserve for deferred taxes should be deducted from rate base, without selective adjustment for individual items. The Orders cited by the Companies directly address the issue and support Ameren's position.~~

~~Even if the Commission were to agree with the AG that those Orders do not control our determination here, the AG fails to provide a convincing reason to change position on this issue. Docket 01-0423, cited by the AG, differs from the instant case because the utility in 01-0423 admitted that certain items were inadvertently included in its initial figure, and it agreed to remove those items to correct the error. That is not the situation here.~~

The Commission agrees with the AG that ADIT components not corresponding to rate base items should be removed from the Ameren Companies' ADIT adjustment. Removing these ADIT components from rate base ensures that items not included in rate base by the Ameren Companies will not have an impact on rate base. For CIPS, these items include deferred tax balance related to pensions, accrued liability for OPEB, and deferred tax debit balance related to the accrual for gas site cleanup costs. For UE, the items include deferred taxes related to pension expense accrual that is not deductible for income tax purposes, net deferred tax debit balance related to the accrued liability for vacation pay, and deferred tax debit balance related to accrual for environmental cleanup costs. The net effect of these adjustments to ADIT is to decrease rate base by \$4,060,000 for CIPS and \$341,000 for UE.

The Commission finds that the facts and circumstances of these cases warrant item-by-item analysis of the components the Ameren Companies included in their ADIT request. This Commission notes that this item-by-item analysis is consistent with the analysis that CIPS' and UE's sister Ameren Company CILCO proposed in ICC Docket No. 02-0837.

III. Exception 3: Commission Conclusion on Original Cost Rate Base

A. Discussion

The People take exception to the tables titled “Approved Rate Base of CIPS’ Gas Operations,” and “Approved Rate Base of UE’s Gas Operations” appearing on pages 27, 28, and 29 of the Proposed Order, containing ADIT amounts inconsistent with the People’s recommendations made above.

B. Replacement Language

The People propose the tables titled “Approved Rate Base of CIPS’ Gas Operations,” and “Approved Rate Base of UE’s Gas Operations” appearing on pages 27, 28, and 29 of the Proposed Order be recalculated to reflect the People’s ADIT recommendations.

IV. Exception 4: Amortization of VRP Costs

A. Discussion

The People take exception to language in the Proposed Order that recommends the Ameren Companies’ voluntary retirement program (“VRP”) costs be amortized over five years. The Proposed Order states, as a reason for rejecting the People’s ten-year VRP amortization period proposal that, “The Commission concurs with the Companies, however, that ten years is beyond the expected life of the rates set in these proceedings.” Proposed Order at 41. The VRP cost amortization time period should not be based on

the expected life of the rates set in these proceedings. Amortization of the costs of the Ameren Companies' VRP is in no way linked to the time period between CIPS and UE rate cases. Instead, the VRP expense amortization period should track the time period over which VRP benefits will be realized. VRP costs do not cease when a former employee is switched from VRP benefits to pension benefits. Instead, VRP expenditures will continue for employees who leave the VRP and remain on CIPS/UE pensions. Accordingly, a ten-year amortization more closely matches the time period during which VRP program expenditures are likely to be made than the five-year period adopted in the Proposed Order.

B. Replacement Language

The People propose the following replacement language for the Commission Conclusion on page 41 of the Proposed Order:

The Commission concurs with the AG that VRP costs would be too high under the proposed three-year amortization schedule. The Commission concurs with the Companies, however, that ten years is beyond the expected life of the rates set in these proceedings. The Commission also concurs with the AG that the VRP amortization time period should match the time period during which VRP program expenditures are likely to be made. Accordingly, the Commission rejects the three-year proposal made by the Ameren Companies and adopts the ten-year amortization proposal made by the AG. ~~both the three and ten year proposals, adopting instead Ameren's alternate proposal of a five year amortization schedule.~~ The Commission finds this to be a reasonable result that is fair to both customers and the Companies' investors.

V. Exception 5: Meter Reading Expense, Non-Labor

A. Discussion

The People take exception to language in the Proposed Order rejecting their proposed "meter reading expense, non-labor" adjustment and characterizing it as flawed because it "assumes that all of the expense incurred during the normalized years

comprises transition expense only... .” Proposed Order at 51. On the contrary, the Peoples proposed adjustment does not assume that all expenses incurred during the normalized years were transition expenses only. AG Reply Brief at 14. The purpose of the proposed normalizing adjustment is to eliminate transition related costs. If, as the Proposed Order suggests, the non-labor meter reading expense during the normalization years only included transition costs, it would make no sense to average those costs to establish the level of non-transition costs. It is precisely because the normalization years did not include transition expenses that those years are used as a basis for determining appropriate non-labor meter reading expense during the test year.

Additionally, the test-year expenses the People seek to disallow are non-labor costs incurred in association with the transition to a new billing system. The Company has not established that these transition expenses are continuing in nature. Accordingly, it is appropriate to normalize meter-reading expenses by eliminating transition expenses incurred in the test year, as proposed by the People.

B. Replacement Language

The People propose the following replacement language on page 51 of the Proposed Order:

The Commission finds that UE’s test-year meter reading non-labor expense included transition related costs. The Commission also finds that the adjustment advocated by the AG is a reasonable method of removing transition related costs from UE’s test-year expenses not sufficiently supported, and is therefore adopted. rejected. The Company fully explained that during and since 2001, the expense level has been relatively stable. It reflects the costs of operating the AMP system, including the contract with CellNet.

The AG demonstrated that UE’s non-labor meter reading expense included transition related costs during the test-year. UE has not established that

the transition related costs it incurred during the test year are continuing in nature. ~~The AG has not identified the nature of expenses comprising the test year figure that it seeks to disallow. Furthermore, the AG's proposal to remove from the test year amount the average of the expense levels from 1998 through 2001 is flawed. It assumes that all of the expense incurred during the normalized years comprises transition expense only, and that the post-adjustment allocation would be sufficient to cover all non-transition costs. The AG did not provide enough evidence to support either of these assumptions. Accordingly, the Commission adopts rejects the AG's proposal.~~

VI. Exception 6: Allocation of Rate Case Expense

A. Discussion

The People take exception to language in the Proposed Order that adopts the Ameren Companies' proposed "half and half" allocation of rate case expenses between CIPS and UE. Proposed Order at 52. The Proposed Order states that the Commission finds the Companies' assignment of rate case costs reasonable because, "In splitting the costs evenly between CIPS and UE, Ameren's proposal does not impose any additional cost on UE customers than if UE had filed its rate case without CIPS." Proposed Order at 52.

Over the past several years, ratepayers have struggled to cope with increasingly high and volatile natural gas prices. The Ameren Companies' proposed rate case expense allocation method adds to the difficulty UE customers face in paying their bills. Under this methodology, UE customers will have to pay more than ten times the amount that CIPS customers pay for the exact same rate case. The Ameren Companies have offered no reason why each UE customer should have to pay more than each CIPS customer for this expense. The 18,000 UE customers do not contribute to the need for a rate case any more than a group of 18,000 CIPS customers would. Absent some compelling reason or

justification, which the Ameren Companies have not provided, UE customers should not have to contribute more than CIPS customers to pay for rate case expenses.

Consequently, the Commission should continue its past practice with regard to allocating expenses for jointly filed CIPS and UE rate cases, and should accept the People's revenue based rate case cost allocation proposal.

B. Replacement Language

The People propose the following replacement language for the Commission conclusion section on page 52 of the Proposed Order:

The AG is concerned that UE customers will shoulder more of the rate case expense than CIPS customers, because CIPS has a significantly larger customer base than does UE. According to the AG, the costs should be split among the two companies based on their relative size.

In splitting the costs evenly between CIPS and UE, Ameren's proposal does not impose any additional cost on UE customers than if UE had filed its rate case without CIPS. The Commission does not views this proposed assignment by the Companies as reasonable. As the AG pointed out, splitting the costs evenly between CIPS and UE places a disproportionate amount of the costs on the shoulders of UE customers for no logical reason whatsoever. Accordingly, the revenue based allocation of rate case expense proposed by the ~~Companies~~ AG, ~~including the adjustment proposed by Staff and accepted by the Companies,~~ is collectively adopted by the Commission as a reasonable method of spreading the rate case expense evenly over the customer base who will pay for it.

VII. Exception 7: Findings and ordering paragraphs

A. Discussion

The People take exception to the findings and ordering paragraphs of the Proposed Order containing figures inconsistent with the People's suggested adjustments specified above.

B. Replacement Language

The figures contained in findings 6, 7, 10, 11, 16, and 17 on pages 134 and 135 of the Proposed Order should be recalculated in a manner consistent with the People's recommendations made herein.

VIII. Exception 8: Schedules

A. Discussion

The People take exception to the \$(1,444,000) figure presented on AmerenCIPS Appendix A, Schedule 2, Column F, Line 15, and to the \$(309,000) figure presented on AmerenUE Appendix B, Schedule 2, Column F, Line 15. These figures represent the adjustments for pension and OPEB expense adopted in the Proposed Order. The figures were calculated using capitalization ratios proposed by the AG. The Proposed Order adopts different capitalization ratios, which, if used to calculate the pension and OPEB expense adjustment, result in an adjustment of \$(1,599,000) for CIPS and \$(340,000) for UE.

Worksheets showing calculations of AmerenCIPS' and AmerenUE's pension and OPEB expense adjustment using the capitalization ratios adopted in the Proposed Order are included below. They are offered only to explain the mathematical application of the pension and OPEB capitalization ratios adopted in the Proposed Order and are not intended as new evidence.

Additionally, the People take exception to "Administrative and General" amounts inconsistent with the pension and OPEB capitalization ratios adopted in the Proposed Order being included in the tables titled "Approved Operating Income Statement for CIPS' Gas Operations," and "Approved Operating Income Statement for UE's Gas

Operations,” appearing on pages 55, 56, and 57 of the Proposed Order. The People propose that these tables be recalculated to include “Administrative and General” expenses consistent with the pension and OPEB capitalization ratios adopted in the Proposed Order.

CENTRAL ILLINOIS PUBLIC SERVICE COMPANY
PENSION AND BENEFITS ADJUSTMENT WORKPAPER
(\$000)

OPEB Allocated to CIPS Gas	(1)		2,212
Charged to O&M	(2)	74.68%	1,652
Pro Forma O&M Expense, per CIPS	(3)		<u>2,418</u>
Adjustment to CIPS O&M			<u>(766)</u>
Pension Cost Allocated to CIPS Gas	(1)		535
Charged to O&M	(2)	99.75%	534
Pro Forma O&M Expense, per CIPS	(4)		<u>1,367</u>
Adjustment to CIPS O&M			<u>(833)</u>
Total Adjustment to Pensions and OPEB - CIPS			<u>(1,599)</u>

Sources:

(1)	Response to AG-3.3		
(2)	CIPS Workpaper WPC-3.10t OPEB	1-0.2532	
	Pensions	1-0.0025	
(3)	CIPS WPC-3.10b		
(4)	CIPS WPC-3.10u		

UNION ELECTRIC COMPANY
PENSION AND BENEFITS ADJUSTMENT WORKPAPER
(\$000)

OPEB Allocated to UE Gas	(1)		548
Charged to O&M	(2)	73.88%	405
Pro Forma O&M Expense, per UE	(3)		<u>604</u>
Adjustment to UE O&M			<u>(199)</u>

Pension Cost Allocated to UE Gas	(1)		101
Charged to O&M	(2)	97.48%	98
Pro Forma O&M Expense, per UE	(4)		<u>239</u>
Adjustment to UE O&M			<u>(141)</u>

Total Adjustment to Pensions and OPEB - UE			<u>(340)</u>
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Sources:

(1)	Response to AG-3.3, Docket No. 03-0009	
(2)	UE Workpaper WPC-3.10v OPEB	1-0.2612
	Pensions	1-0.0252
(3)	UE WPC-3.10c	
(4)	UE WPC-3.10w	

B. Replacement Language

The \$(1,444,000) figure presented on AmerenCIPS Appendix A, Schedule 2, Column F, Line 15 should be changed to \$(1,599,000). The \$(309,000) figure presented on AmerenUE Appendix B, Schedule 2, Column F, Line 15 should be changed to \$(340,000). All of the schedules submitted with the Proposed Order should be recalculated to accurately reflect the pension and OPEB capitalization ratios adopted in the Proposed Order.

CONCLUSION

Wherefore, for the reasons stated above, the People of the State of Illinois request that the Commission change the Proposed Order issued by the Administrative Law Judge in a manner consistent with the recommendations made herein.

Dated: September 22, 2003

Respectfully submitted,

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